

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|-----------------------------------|--------------------------------|
| RONALD GREENLAND, | : |
| Plaintiff, | : |
| | : |
| v. | : Case No. 3:13-cv-272-KRG-KAP |
| | : |
| UNITED STATES OF AMERICA, et al., | : |
| Defendants | : |

Memorandum Order

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72.

The Magistrate Judge filed a Report and Recommendation on August 10, 2018, ECF no. 79, recommending that the motion to dismiss at ECF no. 72 by the Geo Group defendants be granted in part and denied in part, and that the motion for summary judgment by the United States and Preston Benson at ECF no. 45 be granted. Additionally, the plaintiff was directed to file his certificate of merit applicable to the claim against the Geo Group defendants on or before September 10, 2018.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to file written objections. The Geo Group defendants filed timely objections at ECF no. 80, and the plaintiff filed objections at ECF no. 83 that I accept as timely. I have therefore reviewed the record, the Report and Recommendation, and the objections thereto *de novo*.

The plaintiff's objections are meritless. To the extent that the objections, ECF no. 83 at 5, are intended to contain a motion for the appointment of counsel, that motion is denied. Precedent does not require the appointment of counsel in every case

in which expert testimony is necessary. See Lasko v. Watts, 373 Fed.Appx. 196, 202 (3d Cir.2010). At the least, the plaintiff must first present a case with arguable merit in law and fact. Montgomery v. Pinchak, 294 F.3d 492, 498 (3d Cir.2002). Plaintiff has not done that as to either the United States and Preston Benson or the Geo Group defendants.

Because of plaintiff's failure to provide an adequate certificate of merit, it is unnecessary to rule on the objections by the Geo Group defendants. Plaintiff has not submitted an adequate certificate of merit as required by Pa.R.C.P. No. 1042.3, and his state law negligence claim against the Geo Group defendants is dismissed.

After *de novo* review of the record, the Report and Recommendation, and the timely objections thereto, the following order is entered:

AND NOW, this 11th day of September, 2018, it is

ORDERED that the United States' motion for summary judgment at ECF no. 45 is granted. The Geo Group defendants' motion to dismiss at ECF no. 72 is granted in part and denied in part as discussed in the Report and Recommendation. Plaintiff's negligence claim against the Geo Group defendants is dismissed. The Report and Recommendation, as supplemented, is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

Ronald Greenland 18-A-0969
Downstate Correctional Facility
P.O. Box F
Fishkill, NY 12524-0445